#

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3576 OF 2006

Balu @ Rasiklal Munilal
Gujar .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.K.S.Patil for applicant

Ms.M.M.Deshmukh, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 10th October 2006

P.C.

. Heard Mr.Patil for applicant and A.P.P. for State. Applicant had moved the trial court

for bail before filing of the charge sheet and the application was rejected. Although, ordinarily, I would have relegated him to filing of another application before trial court, in the peculiar facts and circumstances of this case and with a view to examine the submissions of Mr.Patil, that co-accused have been enlarged on bail, that I have entertained the present application.

2. Applicant is a police officer and at the relevant time, was posted at Sangli as Assistant Police Inspector. His son, Sameer had a quarrel with complainant and a fight between 2 to 3 minors ultimately, culminated into members of both families taking part and assaulting and beating each other. Out of the main persons in the incident in which complainant's father lost his life, role attributed to the applicant - police officer is that with iron rod in his hand, he assaulted and hit the deceased on his head. Other accused assaulted him with Koyata.

Applicant also sustained injuries and required medical attention. The co-accused have been enlarged on bail but they had no role of this nature in the crime, and, therefore, Mr.Pednekar, A.P.P. submits that this applicant should be denied bail. More so, considering the fact that he was in charge of maintaining law and order but has participated in such heinous act.

3. Applicant at the relevant time was posted at Sangli whereas the incident took place at Hupri where he had come on leave. It is true that the applicant has been named in the F.I.R. and even the weapon i.e. iron rod is recovered at his instance. However, now investigations are complete and charge sheet is filed. Applicant also has sustained injuries and the material in that behalf also forms part of charge sheet. Applicant was also assaulted by one of the sons of deceased. The applicant is under suspension and has undertaken to this Court not to enter Kolhapur Dist. till conclusion of trial.

4. In the peculiar facts and circumstances of this case and considering that investigations are complete, there is no likelihood of the applicant not attending trial and being available otherwise, the applicant deserves to be enlarged on bail with stringent conditions.

5. Hence, following order:-

i) The applicant arrested in connection with C.R.No.41 of 2006 registered with Sangli Police Station shall be enlarged in the sum of Rs.15,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer of Hupri Police Station once a week on every Friday

between 5.00 p.m. and 7.00 p.m. till conclusion of the trial. The applicant shall reside at Sangli. This order does not prevent him from being present in Ichalkaranji Court which is in Kolhapur Dist. on the dates when the trial is scheduled.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any

inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)